

Serial No. 09/827,345

Attorney Docket No. 065691-0216

Sub-D3
28. (New) A method for diagnosing a patient having or at risk of an HIV infection, comprising detecting the presence of said cryptic epitope in said patient with an antibody according to claim 26.

Concluded
29. (New) A kit for diagnosing a patient having or at risk of an HIV infection, comprising at least one antibody according to claim 26.

30. (New) An antibody that binds to at least one isolated cryptic epitope, wherein said epitope is 15 amino acids or less and comprises an amino acid sequence, Pro-Lys-Ile.

REMARKS

The present application is a continuation of abandoned U.S. Application No. 09/599,549 (the '549 application), filed June 23, 2000, which in turn, is a divisional of U.S. Application No. 08/973,551, filed February 19, 1998, which is now U.S. patent No. 6,113,902 (the '902 patent). The scope of the '549 application encompasses claims directed to an antibody that binds to at least one isolated β 2-microglobulin cryptic epitope and a diagnostic method and kit for detecting the presence of the β 2-microglobulin cryptic epitope in a patient having or at risk of an HIV infection.

The subject matter of the present application should be, in essence, the same subject matter as the abandoned '549 application. Instead of submitting a similar set of claims from the '549 application for examination, Applicants submitted the original unamended set of claims from the '902 patent. Hence, pending claims 1-25 which were the original set of claims from the '902 patent, are the incorrect set of claims.

In response to the present Office Action, Applicants have cancelled pending claims 1-25 and added new claims 26-30 for examination on the merits. The previous Examiner (Examiner Nelson), while examining the '549 application, never required the subject matter covering claims 26-30 to be restricted. Accordingly, the present application now contains the correct set of claims directed to the subject matter applicants wish to elect.

CONCLUSION

In view of the following remarks, Applicants believe the present application is now in condition for allowance. An early notice in this regard is earnestly solicited. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date Oct. 15, 2002

By Stephen B. Maebius

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

Stephen B. Maebius
Attorney for Applicants
Registration No. 35,264